

IN THE SENATE OF THE UNITED STATES.

JUNE 13, 1860.—Ordered to be printed.

Mr. BAYARD submitted the following

REPORT.

*The Committee on the Judiciary, to whom was referred the memorial of the Chamber of Commerce of New York, on the subject of international law, as to damages resulting from collisions at sea, have considered the same, and submit the following report:*

The object of the memorialists is to abolish, by statute, all responsibility of the vessel and owners for damages arising from collisions at sea, without regard to the extent of negligence or misconduct of the master and persons employed on board the guilty ship, or however great may have been the injury to the suffering party; and in lieu of the personal responsibility of the owner, and of the guilty vessel, to substitute penal enactments against her master and officers.

In the language of the memorial, in all cases of collision to "leave the loss where it lights," so far as civil remedies against the vessel or her owners are concerned. The only argument in support of this change in the general maritime law is, that, in cases of collision, it is difficult to arrive at the truth, especially where the evidence is conflicting, and that the right of claim upon the owners of the offending vessel is of little value, from the difficulty of obtaining testimony to establish such a claim. But the same difficulty would exist if penalties against the master and officers were substituted for the civil liability of the vessel and owners, and if the argument be sound, all responsibility for accidents at sea should be abolished, and the smaller class of sea-going vessels left without protection from the aggressions of larger and swifter vessels, however recklessly managed.

Applied to large steamers, the doctrine of non-liability for negligence would render the commanders and officers careless of all consequences, and frequent as accidents now are by collision, notwithstanding the duty imposed by law, of constant care and vigilance, they would be indefinitely increased, and power and force alone would give a chance for safety on the ocean. The maxim of the common law, "respondent superior," is by the general maritime law applied to the navigation of the ocean, and the committee believe that the principle of law which holds the owner answerable for the skill, capacity, and vigilant care of those employed by him, and over whom the suffering

party can have no control, is especially requisite for the protection of persons and property on the high seas, and is therefore acknowledged by the maritime law of the world. Even if the change prayed for were desirable, it would be injurious or futile unless the result of reciprocal treaties; for, if such an alteration of maritime law were made by a statute of the United States, it would not affect the liability of an American vessel or its owners for loss of a foreign vessel on the high seas by negligence or fault in its management, whilst it would deprive a United States vessel of all remedies in our own courts for loss and injury sustained on the ocean by the negligence and want of skill in the management of a foreign vessel.

In the opinion of the committee the limitation of the owners' liability to the value of the vessel in case of loss by collision, made by the act of March 3, 1851, is the only modification of his responsibility for the care and skill of the agents in his employment, and deriving their authority from him, which is consistent with the safety and protection of person and property in the use of the common highway of all nations.

It may be remarked that, at the close of the memorial, attention is asked by the memorialists "to the needed measures of relief in this class of their liabilities which are brought into view in the facts in the accompanying report of the committee of this Chamber" (of Commerce.)

No such report has been presented or submitted to the committee, but a report by a committee of the Chamber of Commerce of New York, "on maritime intercourse in time of war" has been transmitted, but has no relation either in its facts or reasoning to collisions at sea from accidents or negligence. The committee ask to be discharged from the further consideration of the subject.